

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

LAYNE GEOCONSTRUCTION,

Plaintiff,

v.

Case No. 03-C-0692

**EMPLOYERS INSURANCE COMPANY OF
WAUSAU and TUDOR INSURANCE COMPANY,**

Intervenor Plaintiffs,

v.

KUHLMAN, INCORPORATED,

Defendant and Third-Party Plaintiff,

v.

FES SYSTEMS, INC. and FES MIDWEST, INC.,

Third-Party Defendants and Fourth-Party Plaintiff,

v.

**LEXINGTON INSURANCE COMPANY and
TRUMBULL INSURANCE COMPANY,**

Third-Party Defendants,

v.

APV NORTH AMERICA, INC.,

Fourth-Party Defendant.

DECISION AND ORDER

On July 19, 2005, the Court granted APV North America, Inc.'s ("APV") Motion to Compel and for Enlargement of Time brought against FES Systems, Inc. ("FES Systems"). As a result, FES Systems was ordered to pay APV's attorney fees and costs. The Court ordered APV to submit a statement of fees and costs no later than August 8, 2005.

On August 8, 2005, the Court received a letter from APV's counsel stating that, "in the interest of fostering civility among the parties to this litigation," APV was waiving its right to recover costs and fees from FES Systems.

NOW, THEREFORE, BASED ON THE FOREGOING, IT IS HEREBY ORDERED THAT:

That portion of the Court's Order of July 19, 2005 requiring FES Systems to pay attorney fees and costs incurred by APV in bringing its Motion to Compel and for Enlargement of Time is superseded by the present Order memorializing APV's waiver to those same fees and costs.

Dated at Milwaukee, Wisconsin this 9th day of August, 2005.

BY THE COURT

s/ Rudolph T. Randa
Hon. Rudolph T. Randa
Chief Judge